

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ANTHONY DeFRANCO,)	
)	
Plaintiff,)	
)	Civil Action No. 04-230-ERIE
V.)	
)	Judge Maurice B. Cohill, Jr.
SUPERINTENDENT WILLIAM WOLF;)	Mag. Judge Susan P. Baxter
STEVE REILLY; DENESE BRUNNER;)	
MANAGER ROD SHOWERS; CASE)	
MANAGER JUDY JACKSON;)	
DR. JOHN DOE; JANE DOE;)	
JEFFREY BEARD; ASSIST. SUPER.)	
WILLIAM BARR; MARILYN)	
BROOKS,)	
Defendants.)	

DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION FOR SANCTIONS

AND NOW, come the defendants, Superintendent William Wolfe, Steve Reilly, Denese Brunner, Manager Rod Showers, Case Mgr.—GECAC Judy Jackson, Jeffrey Beard, Assist. Super. William Barr, and Marilyn Brooks (incorrectly identified as “Mariland”) by their attorneys, Thomas W. Corbett, Jr., Attorney General, Mary Lynch Friedline, Senior Deputy Attorney General, and Susan J. Forney, Chief Deputy Attorney General, Chief Litigation Section, and submit the following Response to Plaintiff’s Motion for Sanctions and Verification of Meeting (Doc. #200):

1. In his Motion for Sanctions, Plaintiff insists that defendant Reilly “misrepresented the truth” in his Answers to Interrogatories. (Motion for Sanctions, ¶ 10.) He is wrong.
2. In his Response #3 to plaintiff’s second set of interrogatories, defendant Reilly stated, that “the Psychology records reflect that on May 29 and June 21 of 2002 inmate DeFranco met with Ms. Eichenlaub.”

3. In light of plaintiff's accusations in the pending Motion, Mr. Reilly reviewed the DC-97 form in the psychology records and realized that he was mistaken in Response #3. In answering the second set of interrogatories, he briefly reviewed the records again, saw two dates on the DC-97 containing Eichenlaub's report, and assumed that both dates were interviews. A redacted copy of that form is attached hereto and as can be seen, the psychological interview was on May 29, 2002, while the report was issued June 21, 2002.

4. Defendant Reilly had answered this question correctly when first asked to review the chart and respond (see Response #4 to First Set of Interrogatories, attached hereto). He will be submitting a supplemental interrogatory answer to correct this inadvertent and certainly unintentional statement.

5. Defendants are not misstating or withholding information. Indeed, plaintiff was given the opportunity several months ago to review his psychology records and thus, would have seen this same document (which indicates a psychological interview on May 29, 2002).

6. Plaintiff unfairly seizes upon the District Court's reference (in its June 20, 2006 Order, Doc. 187) to another Reilly interrogatory answer referring to another date, May 20, 2002. However, Mr. Reilly was simply quoting from the attached record, previously made available to plaintiff, when he stated "DC-97: Sent to the Psychology Department on May 20, 2002. It was sent by Corrections Counselor, Judy Jackson, regarding annual Z Code review. . ." (Response #3 to Second Set, attached.) Defendant Reilly was referring to the fact that Jackson sent the DC-97 to psychology on May 20, not that plaintiff was sent to or seen by psychology on that date. Defendants apologize for any confusion or lack of clarity which caused the Court to misinterpret this answer.

WHEREFORE, defendants submit that plaintiff's Motion for Sanctions is without merit and should be denied.

Respectfully submitted:

Thomas W. Corbett, Jr.
Attorney General

By: /s/ Mary Lynch Friedline
MARY LYNCH FRIEDLINE
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Date: August 2, 2006

CERTIFICATE OF SERVICE

I hereby certify that on August 2, 2006, I electronically filed the foregoing *Response to Motion for Sanctions* with the Clerk of Court using the CM/ECF system. This document will be mailed via U.S. mail to the following non CM/ECF participants:

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